UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/52/486
16 October 1997

ORIGINAL: ENGLISH

Fifty-second session
Agenda item 112 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the United Nations High Commissioner for Human Rights on the Human Rights Field Operation in Rwanda, in accordance with General Assembly resolution 51/114 of 12 December 1996.

97-27760 (E) 311097

/...

Annex

REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS ON THE HUMAN RIGHTS FIELD OPERATION IN RWANDA

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 2	3
II.	ACTIVITIES OF THE HUMAN RIGHTS FIELD OPERATION IN RWANDA SINCE NOVEMBER 1996	3 - 46	3
	A. Response of the Field Operation to the mass return movement	6 - 14	4
	B. Response of the Field Operation to the worsening security and human rights situation in the north-western prefectures and the attacks on expatriates, including the assassination of five members of the Operation	15 - 20	6
	C. Visit of the United Nations High Commissioner for Human Rights to Rwanda and restructuring and adaptation of the Field Operation	21	7
	D. United Nations security measures in response to the deterioration of the security situation	22 - 25	8
	E. Current structure of the Field Operation	26 - 31	8
	F. Projects in technical cooperation in the field of human rights, human rights education and promotion	32 - 41	9
	G. Genocide response and vulnerable groups	42 - 44	11
	H. Staff levels	45 - 46	12
III.	OVERVIEW OF THE HUMAN RIGHTS SITUATION IN RWANDA	47 - 69	12
	A. The human rights situation since February 1997	47 - 60	12
	B. Conditions of detention	61 - 62	15
	C. Genocide trials	63 - 65	15
	D. Other judicial proceedings	66 - 68	16
IV.	OBSERVATIONS	69 - 72	16

I. INTRODUCTION

1. The present report is submitted pursuant to General Assembly resolution 51/114 of 12 December 1996, in which the Assembly requested the United Nations High Commissioner for Human Rights to report on the activities of the Human Rights Field Operation in Rwanda to the General Assembly at its fifty-second session. The terms of Assembly resolution 51/114 were expanded by the Commission on Human Rights in its resolution 1997/66 of 16 April 1997,[a] adopted without a vote; in that resolution, the Commission requested the High Commissioner "to report regularly on the activities and findings of the Human Rights Field Operation in Rwanda, and make those reports widely and promptly available to both the Commission and the General Assembly". The Economic and Social Council, in its decision 1997/274 of 22 July 1997, took note of Commission resolution 1997/66.

2. The present report thus provides an update of the human rights situation in Rwanda and the role of the Field Operation since the High Commissioner's previous report to the General Assembly, submitted on 10 October 1996 (A/51/478, annex). As described below, several events have required significant changes to be introduced into the structure and functions of the Operation. The High Commissioner has determined that, at this stage, the future direction of the Operation needs to be carefully evaluated and, accordingly, has requested a highly qualified expert to assess the mission's work in close consultation with the Government of Rwanda. As this process has not yet been completed, the findings and recommendations from the assessment will be included in an addendum to the present report when they become available.

II. ACTIVITIES OF THE HUMAN RIGHTS FIELD OPERATION IN RWANDA SINCE NOVEMBER 1996

3. In accordance with its current mandate, the Field Operation carries out investigations into alleged violations of human rights and humanitarian law, monitors the ongoing human rights situation; cooperates with other international agencies in charge of re-establishing confidence and thus facilitates the rebuilding of civil society; and implements programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice.

4. A number of important developments have taken place since the High Commissioner's previous report to the General Assembly; namely, the massive return in November and December 1996 of Rwandans to their communes of origin from the neighbouring United Republic of Tanzania and Zaire;[b] a serious deterioration in security and the human rights situation in a number of prefectures in Rwanda since January 1997; an increase in the number of detainees held in Rwandan prisons and other detention centres, which worsened the already overcrowded conditions in all centres; and the start of trials of persons accused of having participated in the genocide.

5. Over the past few months, the Field Operation has focused its monitoring activities on the human rights situation in the context of the mass influx of

returnees to Rwanda and the rise in insurgency and counter-insurgency activities. The Operation brings instances of possible human rights violations to the attention of relevant authorities. In reports and regular meetings with representatives of the Government of Rwanda, the Operation informs the Government of these incidents, encourages it to take appropriate measures to investigate them and to impose sanctions where necessary, and submits recommendations to prevent similar events from occurring. The Operation regularly proposes specific recommendations to the Government with a view to rectifying shortcomings in its observance of international human rights standards. In addition to monitoring the human rights situation in Rwanda, the Operation has been carrying out the activities described below.

A. Response of the Field Operation to the mass return movement

6. One of the main elements of the Field Operation's mandate has been to assist the Government of Rwanda in building confidence within the country in order to facilitate the return of refugees to their communes of origin - a precondition to lasting peace and stability in the Great Lakes region. Unfortunately, the mass return occurred in conditions that made registration of the returnees impracticable. Given the scale of the mass return, persons who may have been directly responsible for acts of genocide and associated violations of human rights and humanitarian law, perpetrated during the 1994 civil war in Rwanda, entered the country among the legitimate refugees. The influx of these criminal elements resulted first in a noticeable decrease in the stability of certain regions, followed eventually by attacks, including those perpetrated against survivors of the genocide and persons associated with them.

7. The Field Operation had taken a number of steps prior to the mass influx of returnees, so that when the return movement suddenly occurred, the Operation was well-prepared to assist the returnees and to monitor the human rights situation related to the mass influx. In the wake of the forced closure of several camps in the Uvira/Bukavu and Goma areas of Kivu Province in Zaire, and the possibility of a massive arrival of returnees, the Operation redoubled its efforts in the prefectures of Rwanda, where the majority of refugees originated, enabling it to monitor, in close cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), the reception and reintegration of returnees into their communes of origin. In this respect, an additional memorandum of understanding between the Field Operation and UNHCR was concluded.

8. Following the start of the massive influx of returnees from Zaire on 15 November 1996, the Government of Rwanda announced that occupants of houses and land belonging to arriving returnees would have 15 days to vacate such premises. The Field Operation has observed difficulties in implementing this directive, and many returnees have not been able to recover their houses or property. In order to assist returnees who lack accommodation, civilian authorities have organized temporary transit centres at communal offices until accommodation becomes available or formerly owned property becomes vacant. While additional housing is being rehabilitated or constructed with the assistance of international agencies, a number of housing and property disputes have arisen between returnees and the current occupants, who include genocide survivors and earlier returnees, among others.

9. The High Commissioner welcomes the policy response of the Government of Rwanda and the steps taken by the Government to construct and provide housing. At the same time, it is crucial that property conflicts between genocide survivors and newly arrived returnees are addressed. In this connection, the High Commissioner appeals to the international community to take steps to increase its material and financial assistance to the Government of Rwanda in the construction and rehabilitation of housing.

10. In contrast with the first days following the mass influx from Zaire, the Field Operation received reports of a larger number of initial arrests of returnees from the United Republic of Tanzania. As in the case of returnees from Zaire, a number of the detainees had turned themselves in out of fear for their personal safety. In other instances, members of the local population took returnees into custody and brought them to local detention centres on charges of participation in the genocide.

11. Indicative of the significant increase in killings and other attacks against genocide survivors and their associates is the fact that from January to mid-February 1997, the Field Operation learned of the killings of 424 persons in 55 separate incidents. These include eight separate incidents throughout the country in which an estimated 54 genocide survivors and persons associated with them were killed and a further 22 injured.

12. The Field Operation also increased its contacts with the authorities in order to increase its human rights assistance to the Government, and augmented its field presence. In particular, the Operation made preparations to assist local authorities in establishing commune committees and other forms of informal local institutions that build local capacity to address issues of justice and reconciliation, security, and the needs of returnees and other groups of the population; to the extent possible, monitored the movement of returnees from transit centres to the communes of origin as well as the arrival of returnees at communal offices; monitored the arrest and detention of returnees through regular visits to local detention centres and collated statistics on detained returnees; monitored the reintegration of returnees through visits with individual returnees and returnee families and held discussions with local authorities and the population in general; investigated alleged incidents involving returnees (in particular incidents of alleged violations of the right to life, the right to security and integrity of the person, and the right to liberty of movement); discussed and followed up on human rights incidents with relevant local and national authorities; provided a presence to promote confidence among the returnees, the population at large and local authorities; participated in crisis cell meetings at the communal and prefectural levels; and facilitated the flow of information to relevant government officials and organizations competent to address material and institutional needs at the communal and other levels.

13. During this period, every field team of the Operation had at least one human rights field officer in charge of returnee reintegration issues, responsible for collecting all information regarding returnees and, together with the team leader, for coordinating the Operation's response and assuring regular meetings and information exchange with government officials and UNHCR at the prefectural level. The Operation's coordination and cooperation with UNHCR

was improved through the additional memorandum of understanding between the Operation and UNHCR, mentioned above, which was specifically designed to strengthen coordination and reduce possible duplication with regard to the mass influx of returnees. In addition, together with the Ministry of Justice and UNHCR, the Operation organized seminars on arrest and detention procedures at the prefectural and communal levels in order to address irregularities in this area; the Operation also prepared videos and organized human rights theatre troupes to raise human rights awareness of issues related to returnees.

14. Once the massive return movement of refugees had started, the High Commissioner reassessed the capacity of the Operation and, on 18 November 1996, appealed to Governments to augment the Operation to 200 by the end of February 1997 and to 300 as soon as identification of qualified personnel, availability of resources and logistical considerations would permit. However, the general security situation deteriorated significantly in January and February 1997, particularly in the north-western prefectures of Rwanda, which necessitated a reorientation in the structure and function of the Operation.

B. Response of the Field Operation to the worsening security and human rights situation in the north-western prefectures and the attacks on expatriates, including the assassination of five members of the Operation

15. Since the beginning of 1997, there has been a serious increase in security incidents involving expatriates working in Rwanda. The Field Operation has become aware of numerous incidents in which expatriates were the victims of killings, attacks or armed robberies. Six expatriates have been killed in three incidents. These incidents involved the killing of three members of a Spanish non-governmental organization on 18 January, the killing of a Canadian priest on 2 February in Ruhengeri Prefecture and the killing of five members of the Field Operation - two international human rights field officers and three local staff - on 4 February in Cyangugu Prefecture.

16. The two most serious incidents involving the Field Operation personnel occurred on 13 January and 4 February. On 13 January, four members of the Operation, including two international human rights field officers, were attacked, threatened and beaten, allegedly by a group of insurgents, while conducting a routine field visit to Giciye Commune, eastern Gisenyi Prefecture.

17. On 4 February, five members of the Operation, including two international human rights field officers, were killed during an attack by a group of around 15 armed individuals, suspected to be insurgents, on the road to Karengera Commune, southern Cyangugu Prefecture. The five members were on their way to attend a meeting organized by prefectural authorities in Karengera Commune.

18. On 12 February, two individuals suspected of participation in the attack were killed during an armed confrontation with the Rwandese Patriotic Army (RPA). On 14 February, the Field Operation was informed by the Government of Rwanda of the arrest of five other suspects. The Operation had private and confidential access to four of the five arrested suspects, inspected the scene of the attack and interviewed eyewitnesses to the incident. At the time of

writing the present report, the five suspects remained in custody and the Government of Rwanda had not provided the Operation with any further information that would lead to firm conclusions on the motives of the perpetrators or the extent to which others may have been involved.

19. The five members of the Operation who lost their lives did so in the service of promoting and protecting human rights in Rwanda with the utmost dedication and competence. The United Nations High Commissioner for Human Rights pays special tribute to the sense of devotion, courage and professionalism of all human rights staff in Rwanda. The five who lost their lives made the ultimate sacrifice in their pursuit of promoting fundamental freedoms and respect for human dignity in Rwanda. Their contribution will always be remembered.

20. The High Commissioner wishes to acknowledge the Government of Rwanda's cooperation in facilitating the visit of the Chief of the Field Operation to Cyangugu immediately following the incident, in the transport of the bodies to Kigali, in the evacuation of the remaining staff of the Operation from Cyangugu to Kigali and in opening an investigation.

C. Visit of the United Nations High Commissioner for Human Rights to Rwanda and restructuring and adaptation of the Field Operation

21. The High Commissioner visited Rwanda on 18 February 1997 in order to assess the status, activities and future strategy of the Field Operation, and to decide on further measures that might be necessary to adapt it. During the High Commissioner's visit to Kigali, the Government of Rwanda expressed deep regret at the tragic loss of life of the five members of the Operation and reaffirmed their strong interest in having the Operation continue its work in all aspects of its mandate and in all parts of the country. The Government explained the acts of violence perpetrated against staff of the Operation and other expatriates working in Rwanda by the fact that, two months after the peaceful and orderly mass return of refugees from Zaire and the United Republic of Tanzania, elements of the former Rwandan Army and the Interahamwe militia among the returning refugee population had established themselves firmly enough to carry out targeted terrorist activities. Genocide survivors and persons associated with them, but also expatriates, were the main victims of these attacks. Noting that United Nations security directives had resulted in a temporary evacuation of field teams of the Operation to Kigali, the Government of Rwanda expressed its view that the actual security situation in Rwanda did not warrant such measures and reaffirmed its interest in the Operation and its commitment to fully cooperating with the Operation in all aspects of its work, including security. The Government also expressed its willingness to cooperate further in the investigation of the killing of the five staff members.

D. United Nations security measures in response to the deterioration of the security situation

22. Following the killing of the five members of the Operation on 4 February, the United Nations Security Coordinator, in consultation with all United Nations operational agencies in Rwanda, declared the security situation in Rwanda to have reached phase IV in the western prefectures, as well as in parts of Kibungo, Gikongoro, Gitarama, Kigali Rural and Byumba Prefectures, signifying that all staff, except those essential for carrying out emergency, humanitarian and security functions of the agency in question, were recommended to relocate temporarily to Kigali.

23. In accordance with these recommendations, all personnel of the Operation were withdrawn from the various field offices to Kigali. Among the security measures taken, the Operation required, inter alia, its personnel to request permission to travel to destinations outside Kigali with prior notice of 48 hours. No travel of personnel was permitted except under armed escort. In addition, security meetings with heads of United Nations agencies and between the Chief of Mission and staff of the Operation were held on a regular basis to discuss and review the security situation. The Operation continues its regular security meetings with staff. The security detail is currently carried out by three internationally recruited security officers.

24. The Operation has been limited by current United Nations security restrictions in its conduct of continuous on-site monitoring activities throughout the country. However, it continued to collect credible information from a variety of knowledgeable and reliable sources within the prefectures under United Nations security phase IV, including eyewitnesses to incidents of violations.

25. By the beginning of September 1997, the Operation still could not visit all communes throughout the country. However, human rights field officers conducted regular field trips to all prefectural capitals, with the exception of Ruhengeri and Kibuye, both of which remained under United Nations security phase IV. These restrictions are currently being reviewed.

E. Current structure of the Field Operation

26. The current structure of the Field Operation is a result of the reorganization and reorientation of the mission following the killing of the five staff members and the onset of United Nations security regulations which has precluded the presence of human rights field officers in all security phase IV zones (currently the western prefectures of Rwanda).

27. The headquarters of the Field Operation comprises a number of units; namely, the Office of the Chief of Mission, the Security and Communications Unit, the Operations and Documentation Unit, the Legal Unit, the Education and Promotion Unit, the Translation Unit and the Administrative Unit.

28. The Operations and Documentation Unit undertakes reporting and analysis on the current human rights situation based on information and reports provided

principally by the Operation's field teams. The Unit is also in charge of the day-to-day management of field teams. The Special Investigations Sub-Unit supports field teams through its investigations of particularly grave incidents and provides training on investigative techniques for human rights field officers.

29. The Legal Unit concentrates on improvements in the administration of justice and in the status and conditions of genocide survivors, undertakes genocide trial monitoring and promotes improvements in penal administration. The Legal Unit seeks to enhance conformity of the legal system of Rwanda with international human rights standards through the promotion of legal reform. The Unit also carries out training of the gendarmerie and the communal police and works to augment and strengthen the capacity of human rights institutions through projects of technical cooperation in the field of human rights, and provides support to the Prosecutor's office to enhance the effectiveness of human rights norms in the context of the judicial system of Rwanda. As regards institution-building, the Legal Unit focuses on the setting up of a national human rights commission, a parliamentary human rights commission, as well as human rights departments in all ministries of the Government and works closely with the newly appointed Special Representative on Rwanda, whose mandate, created by the Commission on Human Rights in its resolution 1997/66,* involves these aspects.

30. The Education and Promotion Unit focuses on improving the position of vulnerable groups, such as women and children, and capacity-building within human rights non-governmental organizations. One of the goals of the Unit is to inculcate and foster a human rights culture within the school system and the public administration of Rwanda, through the development of human rights material in Kinyarwanda, English and French. The Unit will also support educational and promotional activities as well as other programmes of the Field Operation, in cooperation with the Translation Unit.

31. The Security and Communications Unit, vital to the safe and secure functioning of the Field Operation, carries out the following activities: liaison with security officers of other United Nations agencies; liaison with security officials of the Government of Rwanda; development of systems and procedures for the security of the Operation; ongoing evaluation of security threats and risks to the Operation; training of staff to increase security awareness; and ensuring the security of personnel, premises and documentation.

F. Projects in technical cooperation in the field of human rights, human rights education and promotion

32. During his last visit to Rwanda, the United Nations High Commissioner for Human Rights reached an agreement with the Minister of Justice to augment technical cooperation projects in support of the justice system. The following principal projects are to be undertaken by the Field Operation in the coming months: a training programme for judges and clerks of the specialized chambers of the Courts of First Instance so as to facilitate the genocide trial process; a mentor programme involving the attachment of experienced foreign judges and prosecutors to help guide judges and prosecutors of the specialized chambers in

the first year of genocide trials; the setting up of gratis legal aid services to provide counsel for the accused and to assist civil claimants in ongoing genocide trials; and the provision of advice on a fund to compensate victims and survivors of the genocide, which forms the subject of a bill elaborated by the Government of Rwanda currently before the National Assembly.

33. As regards the administration of justice and institution-building, the Field Operation organized conferences on human rights concerning the judiciary and conducted seminars on arrest and detention procedures in the wake of the mass influx of returnees to Rwanda in November and December 1996. The seminars on arrest and detention procedures took place throughout the country and were aimed mainly at authorities at the commune level.

34. In support of law enforcement officials, human rights field officers participated in the training of 150 new judicial police inspectors and 750 new communal police constables. The Field Operation organized a seminar on methods of investigation, criminal law, and arrest and detention procedures at Kigali in November 1996 for officers of the Criminal Investigations Department of the National Gendarmerie. In collaboration with the Ministry of Defence, the Operation organized a seminar for the High Command of the Rwandese Patriotic Army on the role of RPA in the protection and promotion of human rights (Kigali, 2-7 February 1997). Similar seminars were organized at Ruhengeri, Kibungo, Gitarama and Nyanza (Butare) for officers and men of various brigades of RPA covering the prefectures of Gisenyi, Ruhengeri, Kibungo, Umutara, Gitarama, Kibuye, Butare, Gikongoro and Cyangugu.

35. On 24 April, the Field Operation launched a series of seminars for judicial personnel organized jointly with UNHCR, the Ministry of Justice and the Supreme Court, with funding from UNHCR. The series is scheduled to run through to October 1997 and cover all 12 prefectures of the country. These seminars are intended to strengthen the capacity and improve the performance of all public officials - judicial, administrative military, and law enforcement officers involved in the administration of justice at the prefectural level.

36. Under the same programme, the Field Operation conducted a seminar in April for all levels of military personnel, in collaboration with the Ministry of Defence. The instruction to newly appointed members of the Military Court and the Council of War focused on substantive military offences, criminal procedure in the military courts, and the substantive and procedural aspects of the law governing the trials of persons accused of genocide and related offences.

37. Since the beginning of 1997, the Field Operation has taken a more comprehensive approach on the basis of an action programme developed by the Legal Unit in 1997. This structured programme of technical cooperation in the field of human rights involves the principal elements of the administration of justice and legal reform; penitentiary administration; training and institutional support; and genocide response and vulnerable groups.

38. The programme is designed to strengthen the independence of the judiciary; secure improvements in the performance of courts and personnel at all levels of the judicial system; secure improvements to Rwandan national law and practice in

compliance with international standards; evaluate the performance of the Rwandan criminal justice system within the framework of the prosecution before domestic courts of persons accused of genocide and other crimes against humanity committed in Rwanda since 1 October 1990; increase public awareness of Rwandan laws and judicial practices and procedures, including those related to the promotion and protection of human rights; serve as a reliable source of information on the Rwandan justice system; strengthen Rwandan institutions and enhance their capacity to contribute effectively to the promotion and protection of human rights in Rwanda; make human rights documents and materials available to central and field staff of the Human Rights Field Operation in Rwanda and to the general public; secure improvements in conditions of detention in Rwandan prisons and local detention centres; reduce and if possible eliminate overcrowding in places of detention and imprisonment; improve the performance of the penitentiary administration; document and produce communal histories of the 1994 genocide; improve the situation and conditions of certain vulnerable groups in Rwandan society; and assure the protection of witnesses in trials before the International Criminal Tribunal for Rwanda or before domestic courts, of persons accused of participation in the 1994 genocide and crimes against humanity committed in Rwanda since 1 October 1990.

39. To implement these objectives, the Field Operation produced a global technical cooperation project document which spells out the activities requested by potential beneficiaries of the project, particularly government officials at the national and local levels (notably those of the Ministries of Justice, Defence and the Interior), authorities of the Transitional National Assembly and leaders of the local non-governmental community.

40. The project covers five main areas of activity: human rights education and training for the judiciary, the military, the gendarmerie, the police, prison administration personnel, other civil servants and members of local human rights non-governmental organizations; capacity-building in the sector of civilian and military justice; capacity support for human rights non-governmental organizations; the popularization of human rights through formal and informal education and promotion activities; and support for genocide victims and vulnerable groups.

41. The Field Operation pursued its ongoing programme of human rights education and promotion through projects carried out jointly by headquarters staff, field officers and Rwandan partners, including local and national authorities, and human rights non-governmental organizations. The main objective of these initiatives is to create widespread awareness of human rights among the population in general, and certain target groups in particular, including civil servants, the military, women, youth representatives, teachers and students. The Operation organized seminars, conferences and workshops, continued to sponsor five human rights theatre troupes and produced video cassettes, playing cards, banners and radio plays on the theme of human rights.

G. Genocide response and vulnerable groups

42. The Field Operation continued to pay particular attention to the plight of the survivors of the 1994 genocide and of certain particularly vulnerable

groups. It focuses its activities on three main areas of assistance to Rwandan local communities wishing to document and publish the history of the genocide in their communes, in particular the situation of genocide survivors and pays greater attention to the minority Batwa community.

43. The Field Operation pursued its technical assistance for the local genocide history pilot project in a commune in Gitarama Prefecture, notably with regard to the transcription and verification of individual testimonies collected in the commune. In January 1997, it assisted the Association for the Promotion of the Batwa (APB) with the organization of a round table meeting to determine strategies and policies for the improvement of the situation of the Batwa.

44. A number of programmes designed to address genocide survivors and particularly vulnerable groups have been conducted on an ongoing basis. For example, in the first half of August 1997, the Field Operation participated in a seminar on the management of the data on the genocide being developed by Ibuka (the genocide survivors' organization), the Collective of Human Rights Leagues and Associations (CLADHO), International Alert and the Human Rights Information and Documentation System, International (Huridocs) in Gitarama Prefecture for Rwandan and foreign organizations working on the genocide.

H. Staff levels

45. Since the restructuring instituted in March 1997, the Field Operation comprises four sub-offices from which all field activities are coordinated and supported, and visits made to prefectural capitals. These are the Butare Sub-office (covering Butare and Gikongoro Prefectures), the Kibungo Sub-office (covering Kibungo and Umutara Prefectures), the Gitarama Sub-office (covering Gitarama, Kibuye and Ruhengeri Prefectures) and the Kigali Sub-office (covering Byumba, Kigali Ville and Kigali Rural Prefectures). In addition, two satellite field offices have been opened, one in Cyangugu and the other in Gisenyi, in which teams of two human rights field officers work closely with other United Nations agencies. Remaining staff have been deployed in Kigali to increase promotion activities at the national level.

46. By the beginning of September 1997, the Field Operation had 78 members, compared with 81 at the end of June and 89 at the end of March. Currently, the High Commissioner is seeking to identify some 20 qualified candidates to bring the Operation's staffing level up to that required for the more effective implementation of its mandate, and wishes to resume activities in all prefectures of Rwanda, security conditions permitting.

III. OVERVIEW OF THE HUMAN RIGHTS SITUATION IN RWANDA

A. The human rights situation since February 1997

47. The Field Operation has received reports of ethnically motivated attacks targeted against persons on buses of the public transportation system, reportedly carried out by armed groups. In February and March 1997, in two separate incidents, unidentified individuals suspected of being insurgents

attacked public transport buses, separating the passengers according to their presumed ethnic identity, and killed 17 persons.

48. Numerous attacks on judicial personnel have also become a cause for particular concern. For example, since 30 January 1997, the former President of the Kibuye Court of First Instance and defence counsel in the ongoing genocide trials has reportedly disappeared from Kigali Ville Prefecture. Investigations into this possible case of disappearance have been opened by the Field Operation and by local authorities but have been unsuccessful to date. The Operation has expressed its concern about the safety of this high-ranking official to the Minister of Justice as well as to the Vice-President and Minister of Defence. On 14 February, the Vice-President of the Supreme Court, who serves as President of the Council of State, was killed by unidentified armed assailants at his residence in Kacyiro Commune, Kigali Ville Prefecture. Investigations into the incident have been opened by local authorities. On 17 February, the Inspecteur de police judiciaire of Gituza Commune, Byumba Prefecture, together with the Prefecture's tax collector, were killed by unidentified perpetrators while riding a motorcycle in the Commune. The gendarmerie and the local prosecutor have opened an investigation into the incident.

49. The increase in attacks against judicial officials is highly disconcerting, particularly because it threatens to undermine the recent steps taken towards the resumption of the criminal justice system. The Field Operation has urged the Government to adopt measures that would ensure the safety of judicial officials and others involved in court proceedings against persons accused of genocide or other crimes against humanity.

50. In March, reports were received of the killing of at least 137 persons during RPA operations in Kigombe Commune, Ruhengeri Prefecture. Army officers who reportedly played an active role in those operations have been arrested.

51. The Field Operation also received continued reports of killings and other attacks motivated on ethnic grounds, reportedly carried out by armed groups. Cases reported include two separate attacks on schools where students were killed on ethnically motivated grounds in March and April 1997. The first attack resulted in the killing of six pupils in a primary school in Kibuye Prefecture, western Rwanda. A total of 17 female students were killed during the course of the second attack in Gisenyi Prefecture. In both cases, the perpetrators requested the students to identify themselves according to ethnic origin; when they refused to do so, they were gunned down.

52. The months of May and June saw a further deterioration in the security and human rights situation in Ruhengeri Prefecture. There was a significant rise in the number of killings - at least 2,022 persons were killed during RPA operations in several communes of Ruhengeri Prefecture. This was by far the highest number of reported killings in any prefecture during any two-month period since the Field Operation began monitoring the human rights situation in 1994. The Operation has gathered, analysed, and cross-checked information that shows a high number of killings during the RPA cordon-and-search operations, including a reportedly high number of unarmed civilians, such as elderly persons, women and children.

53. In August, there were numerous large-scale confrontations between armed groups and the RPA in Kanama and Rubavu Communes, in Gisenyi Prefecture, followed by cordon-and-search operations carried out by RPA in those areas. Some of those killed in the course of the operations were allegedly members of the former Rwandan Army, the Interahamwe militia or other armed opponents of the Government of Rwanda, who have targeted soldiers of RPA and unarmed civilians in the past. However, others killed during these cordon-and-search operations appear to have been unarmed civilians who were not actively participating in hostilities.

54. On 1 August, representatives of the Government acknowledged that the security situation had seriously deteriorated since May. According to the Government, during the period from May to June, 200 to 300 civilians were killed during military operations in Ruhengeri Prefecture; 1,800 members of armed groups were killed during confrontations; and 90 RPA soldiers, including four officers, were killed during confrontations.

55. At the end of August 1997, armed groups carried out the largest-scale attack against civilians since the 1994 genocide, at a UNHCR-administered camp located in Mutura Commune, northern Gisenyi Prefecture, which reportedly claimed the lives of 128 Congolese refugees and resulted in the wounding of 102 others. Three other persons subsequently died of wounds sustained during the attack. It seems that these persons were seeking refuge in Rwanda from ethnically motivated attacks by armed groups including soldiers of the former Rwandan Army, Interahamwe militiamen and the Zairian military.

56. Following such attacks, RPA conducted large-scale military cordon-and-search operations in the western prefectures of Rwanda. In the course of these operations, many unarmed civilians were reported to have been killed by soldiers under circumstances involving the excessive use of force and which appear to amount to extrajudicial executions.

57. The deterioration in the security and human rights situation in the north-western prefectures, namely Gisenyi and Ruhengeri, relates to escalating attacks by armed groups operating in those prefectures, a problem exacerbated by the apparent ease with which armed groups gain access to weapons, despite the imposition of a United Nations Security Council embargo on arms trafficking in the region.

58. The extensive RPA cordon-and-search operations appear to have led to a high number of civilian deaths. While the Government of Rwanda has a right and responsibility to protect its citizens from the serious threat posed by attacks carried out by armed groups, international human rights and humanitarian law limitations on the use of force in such circumstances must be respected. All those who take no active part in the hostilities must be treated humanely at all times and in all circumstances.

59. Following the incidents in August in Kanama and Rubavu Communes in Gisenyi Prefecture, a high-level delegation including the Vice-President, the Commander of the Military Police and the General Military Prosecutor travelled to Gisenyi to verify the incidents. The General Military Prosecutor confirmed to the Field

Operation that a number of RPA members, including high-ranking officers, had been arrested in connection with the incidents.

60. The admission that RPA officers may have violated international human rights and humanitarian law is to be welcomed since only then can a reckoning of the situation come about and action be taken to correct the problem. Through the Field Operation, the High Commissioner is willing to assist the General Military Prosecutor's Office to investigate and prosecute those responsible.

B. Conditions of detention

61. Since the implementation of United Nations security restrictions, it has been more difficult to obtain an accurate picture of the number of persons currently in detention in Rwanda. The number of detainees registered by the International Committee of the Red Cross (ICRC), had reached 122,000 by mid-September 1997. However, like the Field Operation, ICRC has been unable to visit Ruhengeri Prefecture since January 1997; this figure does not, therefore, include an updated tally of detainees in that Prefecture. According to official figures, the total detainee population of the 19 central prisons (which does not include detainees in communal cachots or military prisons) had reached 68,000 in May and 71,000 by the end of June 1997.

62. Improvements in a number of prison facilities, in particular at the Rwandex Prison in Butare Prefecture, where windows were installed in two cell blocks for male detainees, as well as in a number of other prisons, such as in Kibungo, have been noted by the Field Operation. However, the Operation continues to receive reports of ill-treatment in a number of other prisons, and lack of food, access to water and health care continue to be chronic.

C. Genocide trials

63. As regards genocide trial proceedings, on 27 December 1996 - two and a half years after Rwanda suffered the genocide and civil war, (which ended in mid-July 1994) - the first court proceedings against persons accused of genocide or crimes against humanity were opened pursuant to Organic Law No. 08/96 of 30 August 1996 on the Organisation of Prosecutions for Offences Constituting the Crime of Genocide or Crimes against Humanity committed since 1 October 1990 ("Genocide Law"). Between 3 January and 22 August, the Specialized Chambers of the Courts of First Instance handed down judgements in respect of 174 defendants. Human rights field officers have been able to monitor and report on most of the genocide trials that have taken place so far.

64. The steps taken towards bringing the perpetrators of the genocide to justice and compensating civil claimants are to be welcomed. Progress has been made since the commencement of the genocide trials, including the increased number of witnesses testifying in court; the improvement in detainees' access to case files; and the increase in the granting of reasonable requests for adjournments.

65. However, several aspects of the proceedings remain cause for concern, in particular the lack of full respect for some fair trial guarantees as required by Rwandan law and article 14 of the International Covenant on Civil and Political Rights,[c] and the lack of legal representation in many cases, as well as a general lack of opportunity for category-one defendants to cross-examine witnesses. These shortcomings can be particularly serious given the fact that if found guilty, under Rwandan law, the accused may face the death penalty.

D. Other judicial proceedings

66. In December 1996, criminal proceedings were conducted against a commander of RPA troops at the Kibeho incident of 22 April 1995, during which a large number of unarmed civilians were killed. On 30 December, the Military Court found the high-ranking official not guilty of murder and not guilty of the unauthorized use of arms. However, the Court did declare the official guilty of failing to protect the lives of civilians and sentenced him to 18 months imprisonment and a fine of 8,750 Rwanda francs (equivalent to approximately US$ 30).

67. The decision by Rwandan authorities to open judicial proceedings in connection with the events of 18-23 April 1995 at Kibeho and of 12 September 1995 in Kanama, which had resulted in numerous civilian casualties, in order to determine the responsibilities of a high-ranking officer in command of RPA troops during these incidents, is to be welcomed. However, various aspects of the military justice system of Rwanda remain of concern. The Field Operation has submitted its observations to the Government of Rwanda, including recommendations on measures to guard and strengthen the impartiality and independence of the judiciary as required by Rwanda's obligations under article 14 of the International Covenant on Civil and Political Rights.

68. On 1 September 1997, court proceedings were opened in connection with the events of 11 and 12 September 1995 in Kanama Commune, Gisenyi Prefecture, during which there were numerous civilian casualties. Four RPA officers (two majors and two second lieutenants) accused of murder and of complicity in murder were acquitted of those charges by the Military Court, but found guilty of the lesser charge of failure to assist persons in danger of dying. They were sentenced on 12 September 1997 to imprisonment of 28 months each.

IV. OBSERVATIONS

69. At this juncture, the High Commissioner wishes to conclude with the observation that the Field Operation has made significant progress in the implementation of its mandate, but that in many ways, the human rights situation has worsened considerably since the beginning of 1997 and particularly since May.

70. After three years in operation, many aspects of the human rights situation have yet to be improved significantly. While there have been notable improvements in the conditions of detention, the number of detainees has exceeded 120,000. Only a fraction of the number of persons accused of

participation in the genocide have been brought to trial. The continued detention of persons without trial, particularly in view of the fact that in most cases there is still no dossier setting out the factual and legal grounds for their arrest and detention, constitutes a major human rights concern.

71. As regards the violence perpetrated in the western prefectures, the Government has a right, and indeed a responsibility, to stem the insurgency there. Yet, however great the danger this poses to the security of Rwanda, the Field Operation has documented the killings by agents of the State of numerous unarmed civilians, including the elderly, women and children, who were taking no active part in hostilities. The indications are that, in many of these cases, RPA soldiers have not followed the most basic norms of international humanitarian law in carrying out cordon-and-search operations to flush out insurgents. In this respect, the Government of Rwanda must show a greater willingness to implement the recommendations of the Field Operation. In many cases, investigations into serious incidents, including massacres which apparently have involved the responsibility of State agents, have been opened, but have never been concluded.

72. The foregoing observations will be reviewed through the assessment mission that is to take place and whose findings and recommendations will form the substance of an addendum to the present report. The addendum will also indicate the financial outlook of the Field Operation.

Notes

[a] Official Records of the Economic and Social Council, 1997, Supplement No. 3 (E/1997/23), chap. II, sect. A.

[b] Zaire changed its name to "Democratic Republic of the Congo", effective 17 May 1997.

[c] General Assembly resolution 2200 (XXI) A, annex.

United Nations A/52/486/Add.1

General Assembly

Distr.: General
3 November 1997

Original: English

Fifty-second session
Agenda item 112 (c)

Human rights questions: human rights situations and reports of special rapporteurs and representatives

Note by the Secretary-General

Addendum

The Secretary-General has the honour to transmit to the members of the General Assembly an addendum to the report of the United Nations High Commissioner for Human Rights on the Human Rights Field Operation in Rwanda, in accordance with General Assembly resolution 51/114 of 12 December 1996.

97-29884 (E) 061197 101197

Annex

Addendum to the report of the United Nations High Commissioner for Human Rights on the Human Rights Field Operation in Rwanda

I. Introduction

1. As stated in the report of the United Nations High Commissioner on the Human Rights Field Operation in Rwanda to the General Assembly at its fifty-second session (A/52/486), a careful expert assessment of the work of the Field Operation, in close consultation with the Government of Rwanda, had become necessary in order to chart its future direction. Accordingly, the High Commissioner requested Ian Martin, the former Chief of the Field Operation from October 1995 to September 1996, to visit Rwanda from 6 to 11 October 1997 to assess the role of the Field Operation in the current human rights situation in Rwanda and to make recommendations on the relevance of its mandate, taking into account the views of the Government of Rwanda and the prevailing security conditions. In the course of his mission, Mr. Martin met the President, Vice-President and other senior members of the Government of Rwanda; partner agencies, including the United Nations Development Programme, the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross; and representatives of Governments contributing to the funding of the Field Operation. The present addendum to the High Commissioner's report sets out the findings and recommendations arising from Mr. Martin's assessment mission, which are still under consideration. An informal consultation was held at Geneva on 27 October 1997, to which relevant United Nations partners with current field involvement in Rwanda were invited. The assessment report will be discussed further by the Executive Committee on Humanitarian Affairs in the context of the need for a more integrated approach by United Nations agencies, as agreed at the meeting of the Executive Committee on 30 October 1997.

II. Findings of the assessment mission

2. Developments in the security and human rights situation since the massive return of Rwandans from the Democratic Republic of the Congo (formerly known as Zaire) and the United Republic of Tanzania in late 1996 have been described in the High Commissioner's report to the General Assembly.[1] The Human Rights Field Operation in Rwanda contributes to the protection and promotion of human rights in the aftermath of the 1994 genocide, and in the context of ongoing insurgency and counter-insurgency operations. The difficult and dangerous circumstances in which the Field Operation is carrying out its mandate have cost the lives of seven of its staff. The Field Operation remains committed to re-establishing its presence in the prefectures and communes, as security conditions permit. In early October 1997, a suboffice was reopened in Cyangugu. A field team was preparing to take up residence at Gisenyi but this was postponed owing to an intensification of fighting in the area.

3. As the prime example in the novel technique of the High Commissioner to deploy a human rights field presence *in situ*, even in a situation of internal armed conflict, the Field Operation faces a number of challenges, particularly in the light of the security conditions prevailing in Rwanda. Human rights monitoring has developed much expertise regarding violations committed in the context of political conflict and repression. The Field Operation was, however, not designed specifically to monitor violations of international humanitarian law being perpetrated in the course of severe hostilities or armed conflict. Inevitably, human rights monitors have least access where such conflict is most intense. On the other hand, a human rights presence cannot ignore its responsibility to investigate the credibility of reports that may arise from the conflict areas concerning, for example, allegations of deliberate killings of civilians taking no active part in hostilities, which, if true, concern violations of international human rights and humanitarian law.

4. The efforts of the Field Operation to investigate, discuss with the Government of Rwanda, and then report on the killings of civilians by the Rwandese Patriotic Army during counter-insurgency operations, have made the Field Operation's relations with the Government tense. In May and June 1997, following the withdrawal of field teams from the western prefectures of Rwanda and the imposition of United Nations security restrictions which interrupted the Field Operation's access to conflict areas, the Field Operation received reports alleging large-scale killings of civilians by the Rwandese Patriotic Army in Ruhengeri prefecture, as described in the High Commissioner's report. These allegations were investigated from Kigali, without access to the areas where the killings were alleged to have occurred. The Field Operation was able to access first-hand and

credible sources, assess them in a responsible manner, and make serious efforts to discuss them with the Government before and after submitting a confidential written report to the Ministry of Defence. It must be noted, however, that in the present circumstances there are definite limitations on the ability to verify accounts of such incidents or to estimate with precision the numbers killed. The responsibility to investigate fully such incidents remains with the Government.

5. Since late 1995, the Field Operation has followed the practice of submitting a comprehensive report covering a period of one or two months to the more relevant Government ministries shortly before such reports are due to be presented to Member States and concerned international organizations at Geneva. The Field Operation also submits and seeks discussion on confidential reports concerning particular incidents, patterns of incidents or issues, before they are publicly released in the form of status reports.

6. As regards follow-up on pending investigations, in mid-1996 the Military Prosecutor initiated a number of investigations into particular incidents which the Field Operation had raised with the Government. These investigations, however, do not appear to have been brought to a close, perhaps owing in part to the very limited resources that were available to the Office of the Military Prosecutor until additional staffing under the direction of a senior officer was provided to that Office in April 1997. Consequently, it seems that neither the Field Operation nor the Government considers that an effective dialogue has been maintained. This perception has been exacerbated by a lack of continuity at the level of Chief of the Field Operation.

7. The mandate of the Field Operation places equal emphasis on monitoring and technical cooperation. Efforts have been made to ensure better coordination between the two sets of activities. When monitoring activities were disrupted by the withdrawal of human rights field officers from the western prefectures in February 1997, as required by restrictive United Nations security regulations imposed in the aftermath of the assassination of five Field Operation staff on 4 February 1997 — subsequently resumed only slowly and partially, the Field Operation was restructured and a certain number of tasks reallocated among staff. In the process, greater emphasis was placed on providing support to the justice system and on intensifying efforts to promote international human rights standards. Many valuable training activities have been undertaken since then, more notably with the Rwandese Patriotic Army, the Gendarmerie and Communal Police; officials of the civilian and military justice systems; and members of the Transitional National Assembly. The Field Operation has also worked increasingly closely with Rwandan non-governmental organizations. The perception of the Government, seems to be, however, that the Field Operation remains concerned chiefly with monitoring rather than capacity-building. In contrast, other actors consider that the Field Operation has not resumed its monitoring role sufficiently and has over-allocated staff to promotional activities.

8. Members of the Government expressed concern that, in their view, the Field Operation's reports were not well verified and that, despite not being on the spot, the Field Operation failed to confirm facts before making them public. Certain government officials complained also that the objective of monitoring the human rights situation so as to assist Rwanda to progress in the human rights domain was being neglected. They recalled that the intention of the Government at the outset was to invite the presence of the Field Operation in Rwandan territory in order to encourage a sense of partnership and to help Rwandans to develop the capacity to promote human rights, rather than to bring in monitors to "police" the Government. The Government plans to establish a national human rights commission which, together with Rwandan non-governmental organizations, would assume responsibility for monitoring and promoting human rights. A number of government officials expressed appreciation for several areas of the Field Operation's work, such as the Field Operation's provision of information to the Ministry of Justice and its cooperation with the Office of the Military Prosecutor.

9. Most of the representatives of Governments that have taken the lead in contributing to the funding of the Field Operation and follow its work closely expressed the view that the human rights situation in Rwanda required re-establishment and maintenance of the Field Operation's local presence and monitoring to the maximum extent, consistent with United Nations security regulations. The Office of the United Nations High Commissioner for Refugees, which remains equally subject to United Nations security regulations and whose monitoring activities concerning the situation of returnees are therefore hampered, expressed the hope that the Field Operation would be able to resume more comprehensive visits to local detention centres. The International Committee of the Red Cross, which relies on security assessments independent of those of the United Nations and whose delegates do not travel with armed escorts, currently visits a majority but not all local detention centres.

III. Recommendations

10. The role of the Field Operation should continue to be one which combines a dissuasive local presence and monitoring with technical cooperation and capacity-building. Monitoring should be conceived as a means of assisting the Government to address problems, as a basis for a dialogue to diagnose the needs, and as encouragement to the international community to provide the help necessary to do so. Capacity-building and human rights education and promotion should be clearly linked to the diagnosis.

11. The High Commissioner's bimonthly reports have so far had a semi-public status, which has given rise to a certain ambiguity. Perhaps these reports should be replaced with the submission of reports by the High Commissioner to the Commission on Human Rights, which would be published as official United Nations documents. These reports could be more analytical than the current reports and drafted to ensure that they provide an adequate context for the human rights situation. These reports could also contain recommendations and link the analysis of the human rights situation and recommendations to the Field Operation's capacity-building cooperation with Rwandan institutions. Each draft report could be submitted in advance to the Government, and could form the basis of a dialogue, which would then be reflected in the report submitted by the High Commissioner to the Commission on Human Rights. The useful practice established by the Field Operation in issuing timely status reports on major incidents should be continued, including the practice of discussing these reports with the Government prior to their being more widely disclosed.

12. It is important that, in its reports, the Field Operation explicitly recognize the special difficulties posed by having to investigate violations of international human rights and humanitarian law in a situation of internal armed conflict. In this regard, the Field Operation should continue to investigate as far as possible reports of such violations, including those from areas to which it may not have access under United Nations security regulations. Every effort should be made to interview military commanders in the course of such investigations.

13. The credibility of the Field Operation's capacity-building and promotional role needs to be enhanced by further recognition of what the Field Operation has been doing in fact, in particular by clearly defining the link between the diagnosis of the factors giving rise to human rights violations and the priorities for capacity-building and promotion, and by a better definition of objectives. As the High Commissioner stated in her report to the General Assembly, the Field Operation has developed a substantial programme of technical cooperation activities which it could implement and which reflects extensive consultations with Rwandan partners. In further discussion with the Government, the Field Operation could select a strategic set of capacity-building goals. Further discussions are planned with the United Nations Development Programme regarding cooperation in such projects.

14. The technical cooperation programme includes training and support to the military justice system, an element which should be given very high priority. It also includes support to the independent national human rights commission that the Government proposes to create. It is most important that the necessary legislation, currently being redrafted in the Ministry of Justice, reflect best international practice. Indeed, this concern forms the major focus of the mandate of the Special Representative of the Commission on Human Rights, who is currently holding consultations with the High Commissioner's Special Adviser on National Institutions on this issue.

15. The Field Operation should consider, as a matter of priority, how its current collaboration with Rwandan human rights non-governmental organizations could be developed to further assist their independent capacity in the protection and promotion of human rights. In this regard, it may be useful to seek the participation of a non-governmental organization with experience of such capacity-building in other countries of Africa.

16. The programming of the Field Operation's human rights promotion work has lacked concrete objectives and has not always taken into consideration information and analysis concerning the human rights situation in the country. This work should be better tied to high-priority issues noted in other aspects of the Field Operation's functions, namely, the administration of justice and human rights monitoring. Such issues would include guarantees of a fair trial, the independence of the judiciary and other legal professionals, respect for lawful arrest and detention procedures, safeguards for the right to life and to physical integrity, and popular access to effective remedies for human rights violations.

17. Decisions regarding future staffing and structure must flow from the priorities established concerning the future role of the Field Operation. Field teams are currently understaffed, and some further reinforcement of field teams should take place immediately; recent deployment decisions increased to 27 the number of officers assigned to field teams. The full extent of the strengthening of field teams must depend not only on security conditions but also on the

outcome of discussions with the Government regarding the continuation of the monitoring function and local presence.

18. Strength and continuity at the level of Chief of the Field Operation remain crucial to a continuing dialogue with the Government, as well as to ensuring good morale and management internally. The difficulty and sensitivity involved in investigation and reporting in the current context require skills and experience of a high order. Greater professional experience and expertise should therefore be brought in to support the Field Operation's efforts to promote capacity-building and human rights.

19. Those responsible for security management face a very difficult situation because the areas of greatest conflict shift, the degree of risk may become general to other parts of the country and the situation remains volatile. These conditions require continuous, localized assessment. The United Nations security assessment, conducted by the United Nations Security Coordinator in March 1997, recommended that there should be a professional-level security officer recruited for each proposed field office before such offices were reopened outside Kigali. Security officers have now been designated for the offices at Cyangugu and Gisenyi. The need for a strong Field Operation security team, taking account of the need for a presence in the field as well as at Kigali and for substitution arrangements during leave, should be given the highest priority. The public support of the Government for the Field Operation's role is also important as regards its security.

20. The Human Rights Field Operation in Rwanda is not only the High Commissioner's largest field presence, it operates in particularly difficult and dangerous circumstances in a relationship of sensitivity with a post-genocide Government. It is to be hoped that further discussions with the Government can maintain a common view of the usefulness of the Field Operation's local presence and monitoring, agreed modalities for dialogue and reporting on its findings, and a strategic capacity-building and promotional role linked clearly to the analysis of the human rights situation. The Field Operation then needs to be accorded the highest degree of priority as regards the strength of its direction, the professionalism of its human rights staff, its security arrangements, servicing by the Office of the High Commissioner, and stability and predictability in its funding.

Notes

[1] *Official Records of the General Assembly, Fifty-second Session, Supplement No.* (A/52/).